



# PARTIAL EUROPEAN SEARCH REPORT

Application Number

under Rule 64, paragraph 1 of the European Patent Convention EP 10 18 1428

DOCUMENTS CONSIDERED TO BE RELEVANT			
Category	Citation of document with indication, where appropriate, of relevant passages	Relevant to claim	CLASSIFICATION OF THE APPLICATION (IPC)
X	WO 01/02568 A2 (CHIRON CORP [US]; HYSEQ INC [US]) 11 January 2001 (2001-01-11) * page 31, line 25 - page 45, line 18 * * sequence 814 *	1,7-14	INV. C12Q1/68 C12N15/11 C07H21/04 C07K14/435 C07K14/47
X	WO 00/37643 A (CORIXA CORPORATION; XU, JIANGCHUN; LODES, MICHAEL, J; SECRIST, HEATHER) 29 June 2000 (2000-06-29) * claim 40 *	1,7-13	
A	CHAN ERR-CHENG ET AL: "Identification of novel genes that are differentially expressed in human colorectal carcinoma", BIOCHIMICA ET BIOPHYSICA ACTA, AMSTERDAM, NL, vol. 1407, no. 3, 30 September 1998 (1998-09-30), pages 200-204, XP000910494, ISSN: 0006-3002 * the whole document *	1,7-14	
			TECHNICAL FIELDS SEARCHED (IPC)
			C12Q
LACK OF UNITY OF INVENTION			
The Search Division considers that the present European patent application does not comply with the requirements of unity of invention and relates to several inventions or groups of inventions, namely			
see sheet B			
The present partial European search report has been drawn up for those parts of the European patent application which relate to the invention first mentioned in the claims			
Place of search	Date of completion of the search	Examiner	
Munich	4 April 2011	Schwachtgen, J	
CATEGORY OF CITED DOCUMENTS		T theory or principle underlying the invention E earlier patent document but published on or after the filing date D document cited in the application L document cited for other reasons & member of the same patent family corresponding document	
X particularly relevant if taken alone Y particularly relevant if combined with another document of the same category A technological background O non-written disclosure P intermediate document			



**LACK OF UNITY OF INVENTION**  
**SHEET B**

Application Number  
EP 10 18 1428

The Search Division considers that the present European patent application does not comply with the requirements of unity of invention and relates to several inventions or groups of inventions, namely:

1. claims: 1, 11-14(completely); 7-10(partially)

Means and method for determining the onset of a neoplasm comprising measuring the level of a nucleic acid molecule of SEQ ID NO: 14

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2-64. claims: 2-10(partially)

Means and method for determining the onset of a neoplasm comprising measuring the level of a nucleic acid molecule of SEQ ID NO: 14 and any one or more of SEQ ID NO: 1,2, 4-13, 15-32, 35-38, 40-43, 45-49, 51-56, 58-60, 62, 64-66, 68-72, 337-338

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Article 82 EPC states that for unity of invention to be present all subject-matter should be linked by a single new and inventive general concept.

In the present case the only linking concept that can be identified is that all groups of inventions address the use of a nucleotide sequence substantially as set forth in SEQ ID NO: 14 or a variant or a functional derivative thereof for determining the onset of a neoplasm.

This linking concept and a solution thereto was already known from, e.g. D1 (WO-0102568) which discloses the nucleic acid sequence designated SEQ ID NO: 814 for use in detecting colorectal cancer that is identical to a derivative of SEQ ID NO: 14 of the present application. The linking concept is therefore neither novel nor inventive and cannot provide unity of invention for the identified groups of inventions.

Hence, each further combination of nucleic acid for the detection of the onset of a neoplasm as recited in the dependent claims constitutes a separate invention or groups of inventions that are not so linked as to form a single general inventive concept.

For procedural economy, it should be noted that specific combinations of nucleic acids according to present claims 3-6 that were not disclosed in the parental application will infringe Article 76 EPC.

The application relates to a plurality of inventions, or groups of inventions, in the sense of Article 82 EPC. They have been divided as defined above. If the applicant pays additional fees for one (or more) not yet searched group(s) of invention(s), then the further search(es) may reveal further prior art that gives evidence of a further lack of unity 'a posteriori' within one (or more) of the not yet searched group(s). In such a case only the first invention in this (each of these) group(s) of inventions, which is considered to lack unity of invention, will be the subject of a search. No further invitation to pay further additional fees will be issued. This is because Rule 64(1) EPC stipulates that the European search report shall be drawn up for the parts of the application relating to inventions in respect of which search fees have been paid. In such a case the non-searched claims may be filed as divisional applications.

**ANNEX TO THE EUROPEAN SEARCH REPORT  
ON EUROPEAN PATENT APPLICATION NO.**

EP 10 18 1428

This annex lists the patent family members relating to the patent documents cited in the above-mentioned European search report  
The members are as contained in the European Patent Office EDP file on  
The European Patent Office is in no way liable for these particulars which are merely given for the purpose of information

04-04-2011

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
WO 0102568	A2	11-01-2001	AU 6069300 A	22-01-2001
			EP 1194549 A2	10-04-2002
			JP 2003518920 T	17-06-2003
WO 0037643	A	29-06-2000	AU 2387900 A	12-07-2000
			CA 2356987 A1	29-06-2000
			EP 1144632 A2	17-10-2001
			JP 2002533082 T	08-10-2002